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RONALD C. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: mb /

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BOYNE U.S.A., INC.,
d/b/a/ THE INN AT BAY HARBOUR

Defendant.

1:07-cv-609

Richard Alan Enslen
US District Judge

COMPLAINT

AND JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Peter Gillard ("Gillard") who was adversely affected by such practices. The Commission alleges that Defendant Boyne U.S.A. Inc. violated the Americans with Disabilities Act ("ADA") when it failed to provide Gillard with a reasonable accommodation and terminated his employment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42

U.S.C. § 1981(a).

2. The employment practices hereafter alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Michigan, Southern Division.

PARTIES

3. The Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant (the “Employer”) has continuously been a Michigan corporation doing business in the State of Michigan and City of Bay Harbour and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701 (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant Employer was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Gillard filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Employer.

All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least April 2004, Defendant Employer engaged in unlawful employment practices in violation of the ADA Sections 102(a), 102(b)(5)(A) and 102(b)(5)(B), 42 U.S.C. §§ 12112(a), 12112(b)(5)(A) and 12112(b)(5)(B). The Defendant's practices include, but are not limited to, failing to reasonably accommodate Gillard's disability and terminating his employment.

9. Gillard is a qualified individual with a disability who was able to perform the essential functions of his position with or without a reasonable accommodation.

10. The effect of the practices complained of in paragraph 8 above has been to deprive Gillard of equal employment opportunities and otherwise affect his status as an employee because of his disability.

11. The above-mentioned unlawful employment practices complained of in paragraph 8 were intentional.

12. The unlawful employment practices complained of above were done with malice or with reckless indifference to Gillard's federally protected rights.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. GRANT a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in failing to provide a reasonable accommodation and instead, terminating an employee and any unlawful employment practice which discriminates on the basis of disability;

B. ORDER Defendant Employer to institute and carry out policies, practices, and

programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices;

C. ORDER Defendant Employer to make whole Gillard by providing appropriate back pay with prejudgment interest and benefits, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement.

D. ORDER Defendant Employer to make whole Gillard by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above in paragraph 8 above, including

E. ORDER Defendant Employer to make whole Gillard by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, including humiliation, pain and suffering, in amounts to be determined at trial.;

F. ORDER Defendant Employer to pay Gillard punitive damages for its malicious and reckless conduct, as described above in paragraph 8, in amounts to be determined at trial.

G. GRANT such further relief as the Court deems necessary and proper in the public interest.

H. AWARD the Commission its costs of this action.

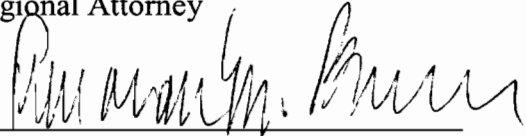
JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

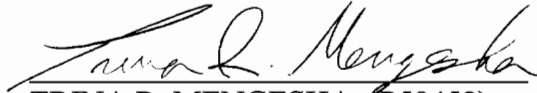
DATED: June 26, 2007

Respectfully submitted,

LAURIE YOUNG
Regional Attorney

A handwritten signature in black ink, appearing to read "Deborah M. Barno", written over a horizontal line.

DEBORAH M. BARNO (P44525)
Supervisory Trial Attorney

A handwritten signature in black ink, appearing to read "Trina R. Mengesha", written over a horizontal line.

TRINA R. MENGESHA (P59458)
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
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